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High-level ministerial segment and policy dialogue with heads of international organizations

Note verbale dated 20 April 2005 from the Permanent Mission of Costa Rica to the United Nations addressed to the Secretary-General

The Permanent Mission of Costa Rica to the United Nations presents its compliments to the Secretary-General of the United Nations and has the honour to submit herewith the organizational initiative report on the "Expert Meeting on Traditional Forest-related Knowledge and the Implementation of Related International Commitments" (see annex).

The Permanent Mission of Costa Rica to the United Nations requests the Secretary-General to include this report among the documentation for the fifth session of the United Nations Forum on Forests, to be held from 16 to 27 May 2005.

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Annex to the note verbale dated 20 April 2005 from the Permanent Mission of Costa Rica to the United Nations addressed to the Secretary-General

Expert Meeting on Traditional Forest-Related Knowledge and the Implementation of Related International Commitments 6-10 December 2004, San Jose, Costa Rica

Chairperson's report

[Original: English and Spanish]

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I. Introduction

The Expert Meeting on Traditional Forest Related Knowledge and the Implementation of Related International Commitments was held in San Jose, Costa Rica, from 8-10 December 2004 and was preceded by a two day Indigenous Preparatory Meeting from 6-7 December. The meeting was convened by the International Alliance of Indigenous and Tribal Peoples of the Tropical Forests, the local host organization Ngobegue Association, and the Government of Costa Rica. This is a short summary of the processes and procedures, and of the main findings and recommendations for both the UNFF and the CBD. Interested people are encouraged to read the full proceedings report.

In order to establish an environment in which globally applicable recommendations could potentially be drafted, participants were drawn from countries and peoples throughout the world. Participant selection also focused on having a range of major international agencies relevant to forest policy, relevant regional and international NGOs, government representatives and UN bodies relevant to the meeting topic. The total number of participants was 161, with 104 Indigenous Peoples' representatives, 9 UN and International Agencies' representatives, 26 NGO representatives, 15 governmental representatives and 5 representatives of the scientific community.

Objectives

The primary objective of the Expert Meeting and the Indigenous Peoples' Preparatory Meeting was to identify ways to improve the national implementation of international commitments on indigenous peoples, local communities and traditional forest-related knowledge. Its specific objectives were to increase understanding of the challenges and successes in fulfilling international commitments on TFRK and related issues and generate concrete recommendations for improved national implementation; and to pinpoint strategies and best practice for the recognition of the rights of indigenous and tribal peoples and the effective protection and maintenance of their traditional forest related knowledge.

II. Organization of Work

The meeting was held in two phases, the Indigenous Peoples' Preparatory Meeting on the 6th and 7th of December and the formal Expert Meeting held on the 8th through 10th of December. The Indigenous Peoples' Preparatory Meeting was intended primarily to provide a forum for indigenous peoples to discuss the upcoming expert meeting, and to serve as a capacity building forum. After the conclusion of the Indigenous Peoples' Preparatory Meeting, the full Expert Meeting was held with representatives of governments and international agencies joining discussions and working groups.

III. Indigenous Peoples' Preparatory Meeting

The key objectives of holding a two-day Indigenous Peoples' Preparatory Meeting prior to the Expert Meeting were: to provide a capacity building session for all indigenous peoples' representatives to learn of international forest-related policy processes; to provide a forum for exchange of national and local level experiences between IPs from different regions; to formulate a common understanding; and to strengthen solidarity and networking among indigenous peoples' organizations and support networks.

Inaugural Programme

The programme of the Indigenous Peoples Preparatory Meeting began with an opening ceremony preformed by **Don Urbino Figueroa** who called on the spirits to guide the deliberations to follow. **Mr. Kittisak Rattanakrajangsri**, the Executive Secretary of the IAITPTF outlined the programme for the meeting and the expected outcomes from the discussions and debates to follow. **Ms. Esther Camac**, head of the local coordinating team and Regional Coordinator for the Central American region under the Alliance, then welcomed all participants and outlined meeting arrangements. **Mr. Parshuram Tamang**, UNPFII member for Asia and South Asia Regional Coordinator of the IAITPTF, and **Ms. Esperanza Colop**, a Mayan spiritual leader jointly acted as Chair for the two days of the Indigenous Peoples' Preparatory Meeting.

Orientation Programme

After the inaugural programme, Mr Tamang and Ms Colop guided the meeting into the orientation programme, where a range of presenters provided participants with background information on the United Nations Forum on Forests (UNFF) and the Convention on Biological Diversity (CBD). To provide a balance in perspectives, representatives from the Secretariats of each process were invited to present, followed by Indigenous leaders providing history and information about indigenous involvement from an indigenous perspective, and the perspective of civil society.

The United Nations Forum on Forests (UNFF)

Ms. Ghazal Badiozamani, representing the Secretariat of the UNFF, introduced the past work and mission of the UNFF. The proposals for action which emerged from these processes are the guiding document for the work of the UNFF established by the UN ECOSOC in 2000 as a universal body for international forest policy within the scope of its programme of work. **Mr. Tom Griffiths**, from the Forest Peoples Programme, then presented some of the challenges and obstacles that Indigenous Peoples have faced in gaining greater recognition within the UNFF and the collaboration that the IP Major Group has forged with the NGO Major Group in UNFF. **Mr. Marcial Arias**, from the Kuna people of Panama and a long-term focal point for Indigenous Peoples within the UNFF processes, presented the challenges faced by Indigenous Peoples in the past in their collaboration and involvement with the UNFF process.

The Convention on Biological Diversity

Mr. John Gordon Scott, from the Secretariat of the CBD, presented a brief over view of the structure and mission of both the Convention on Biological Diversity and the Secretariat that supports its implementation. **Ms Jannie Lasimbang**, a Kadazan from Malaysia currently serving as the Secretary General of the Asian Indigenous Peoples' Pact, presented the work that Indigenous Peoples have done to increase the profile and recognition accorded to Indigenous Peoples' rights within the CBD and all related processes.

National level case studies

After the orientation sessions were complete, a series of national case studies were presented by their authors. These case studies were commissioned by the IAITPTF to examine progress in implementation of international commitments at national and local levels, establishing clear examples of the challenges faced by governments, indigenous peoples, local communities and international forest-related agencies in different contexts, as well as identifying specific successes, and best practice cases. In this report, there is only a brief recounting of the case studies presented. Full case studies are available on request from the Secretariat of the International Alliance. Presented at the meeting were:

Africa

- Democratic Republic of the Congo, Ms. Emily Caruso, on behalf of Mr. Sinafasi Maleko Adrien
- Rwanda, Mr. Charles Uwiragiye
- Kenya, not presented due to travel difficulties, Ms. Lucy Mulenkei and Mr. Daniel Kobei

Asia

- Thailand, Mr Chupinit Kesmanee
- Nepal Dr. Bijay Singh
- Philippines, Ms Jill Carino
- India, commissioned study not presented due to travel difficulties, community experience presented instead by Mr. Devjit Nandi and Mr. Desrath Markam.

Latin America

- Peru, Sr. Roberto Espinoza.
- Venezuela, Sr. Ortimio Castillo
- Panama, Mr. Marcial Arias

Northern

- Russia, Mr. Vladimir Borchanikov
- United States of America, Mr Frank Lake
- Canada and the Wendeke Plan of Action, Mr Harry Bombay

During the presentation of these national case studies the draft Declaration document prepared by the Declaration Drafting Committee was presented to participants for discussion and change.

Working Group Discussions

After the orientation session and the detailed presentation and discussion of the national level case studies, there was general plenary discussion of what participants wanted to present to the UNFF and other relevant processes regarding international commitments on forest policy and indigenous peoples. Participants in the plenary then divided into four thematic working groups to discuss three areas of concern to Indigenous Peoples, namely: international level mechanisms and instruments; national level mechanisms and instruments; and issues or obstacles to participation by Indigenous Peoples. A further working group was established to discuss the principles on which Indigenous Peoples would be willing to participate in international processes regarding forest policy and forest management. Following here are the reports that these working groups presented back to plenary, which were then provided to the Declaration Drafting Committee for consolidation into a draft Declaration.

Working group one – **Principles and Preamble** – were asked to discuss the principles on which Indigenous Peoples would be willing to participate in international processes relevant to forest policy, and to review the preamble of the Declaration. The group, chaired by **Ms. Joji Carino**, discussed the issues brought to light during the orientation session, the issues raised in the national level case studies and the ensuring plenary discussions. A set of general principles was drafted which emphasized that IPs participate in these processes as rights-holders, not as stakeholders. Following this approach of rights-based participation, the principles also reaffirmed the rights of Indigenous Peoples as recognized in emerging international human rights instruments. The draft principles also dealt with the nature of TFRK, affirming that it is "indivisible, not transferable, inalienable and non-negotiable" and intimately linked with the lands and territories with which it has been developed.

Working group two dealt with **national level mechanisms and instruments**, with **Ms. Jannie Lasimbang** chairing the group discussions. The group reported back to the plenary with a detailed list of recommendations dealing with the need to harmonize, repeal and / or reform national legislation to confirm with international commitments. The recommendations also dealt with the categorization of lands (protected, reserved etc.) and the alienation of indigenous peoples that can result, extractive industries and government responsibilities to protect peoples' rights in the face of such industries were also discussed. Information disclosure on a national level was raised as an issue of particular relevance, and also the need to create or institute mechanisms for the protection and expansion of knowledge transmission.

Working group three dealt with **international level mechanisms and instruments** under the guidance of Mr. Marcial Arias. The key recommendations emerging from the discussions in this group were that TFRK should be treated as a cross-cutting issue in all UNFF discussions; that the UNPFII should become part of the CPF; and that measures should be taken to ensure financial support for IP participation at all levels. The group also outlined what they saw as the key weaknesses of the UNFF and the CPF, including: lack of transparency; ineffective monitoring and reporting mechanisms; weak linkages between international policy and national implementation; and aversion to discussion of human rights issues.

Working group four discussed issues of **participation**, and obstacles or opportunities available to Indigenous Peoples in participating in national and international level policy processes, under the guidance of **Ms. Le'a Kanehe.** Two aspects emphasized in the discussions were the barriers created by language difficulties, and the barriers of restricted understanding of the nature and implications of these policy processes at a community level. Specific recommendations included: fast tracking IP application to attend UN processes; establishing a UN funding mechanism for IPs specifically; participation of elders, youth and women should be emphasized; and all UN processes dealing with TFRK should insist on the participation of IPs. In regards to accountability and community understanding, recommendations were drafted dealing with follow-up activities and community consultation.

Plenary discussion of these presentations followed, and issues raised in addition to presented discussions included:

- The issue of trade negotiations and their impact on national legislation;
- The need for specific recommendations to deal with the currently contentious issue of Free, Prior, Informed Consent (FPIC);
- The need to prioritize the recommendations being established;
- The lack of mention of conflict in Indigenous Peoples' lands and territories, and a related lack of mention of human rights violations;

The results of these discussions in plenary were presented to the drafting committee, together with written reports from each working group and any independent submissions that participants wanted to provide. The drafting committee worked long hours to synthesize all information provided into them into the draft Corobici Declaration which was then introduced into the Expert Meeting. It was finalized, as will be seen, in the Plenary Session on the final day of the meeting, on the 10th of December. The full Corobici Declaration is available in Chapter VIII of this report.

IV. Expert Meeting on TFRK and Related International Commitments

The formal work sessions of the Expert Meeting were opened with a Mayan spiritual ceremony held outside the grounds of the conference venue. **Ms Esperanza Colop** from Mexico led the ceremony, and called on the heart of the sky and the heart of the earth to guide participants in the meeting. Participants from throughout the world knelt together to ask for clarity of thought and wisdom for the coming deliberations.

The Government of Costa Rica opened the formal session of the Expert Meeting, with a welcome speech by the Costa Rican Vice-Minister of Environment and Energy, the **Honorable Snr. Allan Flores Moya**, who spoke of the support that the Costa Rican government gives to indigenous peoples within the country itself and internationally. Following this, **Ms Ghazal Badiozamani** presented a welcome speech on behalf of **Mr Pekka Patosaari** Head of the UNFF Secretariat. She emphasized the importance of UNFF5 to the future of the international dialogue on forests. Key discussions will take place in the 5th Session which will determine the shape of the UNFF in the future, and the possibilities open to states for any future arrangement on forests. Ms. Badiozamani emphasized the importance of involvement by Indigenous Peoples in a range of meetings in the five months remaining prior to UNFF5, where governments and agencies would be discussing and establishing their priorities and positions for the 5th Session. **Mr. Parshuram Tamang** on behalf of the International Alliance of Indigenous and Tribal Peoples of the Tropical Forests, welcomed all participants to the meeting. In particular Mr. Tamang emphasized the Indigenous Peoples are key players, as rights holders, in conservation and in the sustainable use and management of forests. The key issues Mr Tamang brought to the attention of the plenary included: non-recognition of the rights of Indigenous Peoples; lack of social and human rights components in many National Forest Programmes; lack of knowledge about existing international agreements and arrangements on forests among communities and among local governments; and a low level of participation by Indigenous Peoples in the key international processes relevant to the protection of indigenous peoples' rights to resources, lands and territories.

After the formal opening session of the Meeting was concluded, the Chairs of the Expert Meeting were announced. The Government of Costa Rica extended high level support to all aspects of the Expert Meeting, and sent a representative, Sr. Jose Morales, to co-Chair the meeting. He was joined on the podium by **M. Jocelyn Therese**, from the Kalina people of French Guyana, and coordinator of the South American region of the International Alliance.

Regional Case Study Presentations

To establish a framework for the discussion to follow, the case study authors of each of the regional case studies presented their findings in plenary. This began with a presentation of the Africa regional study by **Mr Tom Griffiths**, followed by the Asian regional study presented by **Ms Joji Carino** and the Latin American study by **Sr. Carlos Seville**. The case studies are available in full text from the Secretariat of the Alliance.

Following these presentations, participants were divided into regional working groups to enable more detailed discussions. The regional working groups were each provided a general framework for the discussions to follow, and after two days working together reported back to plenary on the afternoon of the 9th of December. To enable more detailed exchange within regional groups, discussion of the actual experiences of participants was encouraged. Each group was mandated to compile recommendations to the UNFF, to the CBD, to national governments in their regions and to other processes or agencies as they saw fit. Thematic areas which each regional group was asked to look at included: recognition of Indigenous Peoples' rights and / over traditional forest related knowledge; land rights, customary law and forest management; Intellectual Property Rights and traditional knowledge; and participation / mechanisms for monitoring.

Regional Working Group Discussions

Asia-Pacific Group

Ms. Joji Carino from Tebtebba Foundation in the Philippines chaired the Asia and Pacific Working Group, and the fruitful and wide-ranging discussions were framed around three thematic areas; lands, territories and resources; national land and forest plans, policies and programmes; and traditional knowledge. The thematic area of traditional knowledge (TK) was further divided into customary laws and TK inputs into sustainable forest management. In addition to these key thematic areas, cross-cutting issues were identified as participation mechanisms and implementation levels. Finally, a number of broader areas of concern or possible links were discussed, including Access and Benefit Sharing, and Climate Change.

The discussions began with a brief introductory explanation of national circumstances from each of the participants, after which the thematic issues were addressed in greater detail. Raja Devasish Roy described the history of the forest policies in place in Bangladesh, pointing also to the **role that external donors such as the ADB can play** in the development of such policies. This was supported by experience from Malaysia, with external donors putting pressure on the state to **emphasize natural resource management rather than natural resource extraction**. The legal framework in which indigenous lands and territories are viewed was brought up in the context of gazettal of lands in Indonesia, both Joji Carino and Hubertus Samangun bringing attention to **the lack of information provided to communities** prior to change in the legal status of lands. This was supported by the experience from Malaysia, where there are regulations which state all communities should be provided information prior to changes in land status, but where such information is often not provided. **The nationalization of forest lands** in Nepal, India and Thailand was also mentioned as a legal obstacle to the recognition of indigenous and tribal peoples' rights.

Representatives from the Pacific region joined discussions late on the first day, and provided brief descriptions of the circumstances facing them in Tonga, Aotearoa / New Zealand, Hawaii and Australia. For Aotearoa, 'conservation areas' are excised out of the area on which land claims by the Maori can be claimed and thus conservation policy constitutes an area of significant concern. For Tonga, there is total nationalization of forest lands, and around 70% of the total area of the country is under the ownership of the Crown or noble families. Corruption is a serious issue in the management of these lands. In the Australian context, past government policies have resulted in long-term alienation of indigenous peoples from their lands and resources.

There was also significant discussion **regarding terminology used by the national governments** in the region, and the recognition or otherwise of the presence of indigenous peoples. Mr. Chupinit Kesmanee mentioned that Thailand does not recognize the existence of Indigenous peoples in Thai territory, a position also true of Bangladesh and India. Dr Rekha Pai from India reiterated that although tribal peoples were recognized within Indian law, 'indigenous peoples' was a term that the government of India did not accept. It was agreed within the working group that differences in terminology used would be respected, that each participant could use the term which they considered appropriate and not object to the same right being exercised by others in the group.

Key themes emerging in the discussion over the first day were: the importance of international level commitments but a co-current need to recognize that **it is on the community level that the struggle to retain control over resources is being fought**; the issue of recognition of traditional management practices such as rotational farming; and the need to identify existing and possible **modes and mechanisms for participation**.

Africa Group

The Africa regional working group chaired by **Mr Lambert Okrah,** established that, in Africa, the fundamental obstacle to the implementation of any international commitment on TFRK is the **lack of formal governmental recognition of the existence of indigenous peoples and communities**. For this reason, African governments have in most cases not recognised indigenous peoples' lands or rights to these lands. Most of the lands indigenous peoples live on belong de facto to the government rather than the communities. Lack of control by African indigenous peoples over their forests and

lands is at the root of the loss of TFRK. Furthermore, recognition of indigenous peoples is fundamental if they are to meaningfully participate in and give their consent to projects which affect their lands, forests and TFRK. Many countries in Africa are also suffering **the consequences of, or are in the midst of armed conflict**. Governments are not providing the necessary protection for indigenous peoples caught in these conflicts, and this has severe consequences both for indigenous peoples' forests and the maintenance of their TFRK. Capacity building and resources for indigenous peoples and NGOs to effectively organise themselves and network, as well as being granted freedom to do so by their governments, was recommended as essential for indigenous peoples' rights advocacy and the maintenance of TFRK.

Another problem highlighted with regards to the maintenance of TFRK within communities is the **lack of interest of the younger generation** in learning this knowledge and the lack of desire in the older generation of passing it on. It was suggested that **capacity building and resources are necessary** for the education of boys, girls, and women, using both national curricula and specific indigenous curricula, which would include TFRK. Furthermore, steps should be taken to build indigenous communities and organisations' capacities to understand international agreements relating to TFRK, and the manners and forms they can use to advocate for their rights. More information and capacity building for indigenous peoples to deal with the issue of documentation and benefit sharing of indigenous knowledge was deemed essential.

Latin American Group

Ms. Mirian Masaquiza and **Sr. Cecilio Librado Solis** chaired discussions in the Latin American group. There was a general consensus among IP representatives that existing international commitments in Latin America were not being effectively implemented and that indigenous land rights were being violated. It was noted that certain governments had not yet recognised IPs in their constitutions and that they were rarely invited to participate in the formulation of national forest laws and programs. Whilst some argued that IPs ought to establish themselves politically, others stated that political representation would not be sufficient for indigenous needs to be met. Participants were also concerned that the **lack of funds for IP organisations** has meant that IPs are not empowered to implement local programs and management schemes.

On the issue of **benefits and intellectual property rights**, it was noted that IPs should have control over the conduct of research and bio-prospecting in their territories and that the results and benefits accruing from such activities should be returned to the communities concerned. However, there were concerns about any movement from a rights-based approach towards an approach concerned with the extraction of benefits from forest resources (this orientation was contrasted with that of the UNFF, which tends to focus on TK as it relates to IPRs and ABS). It was also recommended that the term IPR should be replaced with "Intellectual and Cultural Patrimony" in the context of IPs.

In relation to **TFRK and land tenure** many participants emphasised that secure land tenure and the preservation of TK are indivisible. Several stated that concessions made in indigenous territories constitute a serious threat to the TFRK of IPs and violate their land rights. It was noted that governments should **disseminate information on international processes** more effectively, and that UN bodies should harmonise their distinct systems for the participation of IPs so as to make them more accessible. Others drew attention to the need for IPs to be more proactive at the national level, ensuring their accountability to their local communities and organisations, and lobbying their governments.

In relation to the issue of **capacity-building**, a number of representatives asserted that young people should participate in indigenous decision-making processes and that access to education should be facilitated so as to enable their entry into national processes at higher levels. It was also recommended that IPs familiarise themselves with the legislative provisions that governments have put in place in order to be able to defend themselves effectively against violations of existing laws.

Northern Countries Group

The group, chaired by **Mr Markku Aho**, organized its focus around the upcoming meeting of the

UNFF (5) and the opportunity to address indigenous peoples' issues within the context of the assessment of work done thus far by the UNFF, as well as possible future arrangements. There was significant discussion regarding the future international arrangement on forests and it was recognized that **the IAF is currently not ready** to embark upon a process of negotiating a legally binding instrument on forests, since the UNFF has yet to adopt the holistic vision of forests held by indigenous peoples, in which their collective rights to their lands and territories and knowledge, are integral. Additionally, many group members felt that, while **there are clearly issues that are relevant to all indigenous peoples, there are also issues that are specific to Northern Indigenous Peoples**, and thus should be addressed as distinct regional or geo-political issues.

Embedded within the discussions on any future international arrangement on forests, there was much discussion regarding the fact that the scope of issues addressed in relation to Indigenous Peoples' Forest Related Issues needs to be expanded beyond the way it has thus far been defined (narrowly, for example, as TFRK), so that it can include some of the problems that are faced by Indigenous Peoples as a result of climate change, trade accords, protected areas legislation, etc. It was also noted that Indigenous Peoples do not want to simply be lumped in to "civil society", as a result of their existence as distinct peoples. Thus, they need to be incorporated into the international negotiating fora (and national as well) in a manner that reflects this unique status, in comparison to the other "major groups" that have been established through the Rio/Agenda 21 framework.

V. Concluding Remarks

On the 9th of December all regional working groups reported back to plenary, presenting the detailed recommendations resulting from the work that they had done over the 7th and 8th of December. The Drafting Committee for the recommendations, including Ms. Ghazal Badiozamani, Mr. Marcus Colchester, Ms. Joji Carino, Mr. Ricardo Carrere and Mr Johnson Cerda then worked hard to consolidate the key recommendations into a central text for presentation back to the plenary. In detailed discussion in plenary on the 10th of December, a total of 81 recommendations were passed, directed at a range of actors and processes. The recommendations focus on providing practical international, national and local guidelines for the effective implementation of commitments, and will serve as a useful tool for lobby and advocacy work in the future for all participants. More specifically, the recommendations focus on

- establishing effective frameworks for recognition of indigenous peoples' rights in forest policies by national governments and states
- improving implementation of international agreements related to forests
- implications for the International Arrangement on Forests
- indigenous peoples' actions
- donor agencies' role in cooperation and partnerships to achieve needed reforms and to ensure proper and adequate capacity building

The plenary on the 10th of December also saw the adoption of the Corobici Declaration, an outcome of the earlier Indigenous Peoples' Preparatory Meeting. The Declaration calls for recognition and protection of the rights and roles of indigenous peoples in forest policy-making and management. The recommendations and declaration will be submitted to the 5th session of the United Nations Forum on Forests (UNFF) in May 2005, the Convention on Biological Diversity (CBD), and other international forest-related processes as proposed models of implementation. In the closing session of the Meeting, Licenciado Carlos Manuel Rodríguez Echandi, Minister of Environment and Energy in the Government of Costa Rica, attended and formally thanked the participants and closed the meeting.

VI. The Corobici Declaration and Consolidated Recommendations

The Corobici Declaration

Preamble

1. We the Indigenous Peoples gathered here in San Jose, Costa Rica, reaffirm the principles contained in the Kari Oca Declaration, the Leticia Declaration, the Kimberley Declaration and Indigenous Peoples Plan of Implementation for Sustainable Development and the Wendake Plan of Action. Through a range of actions such as community defense of forests, national consultations, documentation of case studies, and the application of indigenous knowledge, indigenous peoples are contributing to sustainable forest management and protection.
2. Indigenous peoples provide concrete solutions to many of the issues facing humanity today and by strengthening indigenous peoples' roles through effective participation in areas such as forest management and sustainable development, indigenous peoples can contribute significantly to a sustainable future for all of humanity.
3. We are shocked at the accelerated deterioration of our lands, territories, forests, water and subsoil and at the continuing violation of our rights. Free access to and use of our lands, forests and waters is forbidden to us. The titling of our lands is postponed in order to favor third parties. Protected areas, oil, timber, fishing concessions and forest plantations are created that overlap with our lands, resulting in the eviction of and restrictions for our peoples. Leaders and communities defending their forests are imprisoned and arbitrarily harassed. Our fight for our rights is criminalized and our territories are militarized. The increasing number of these cases and the lack of legal redress is alarming, as the leaders and experts attending the meeting have pointed out.
4. We express our deep concern about the attitude of the United Nations bodies in treating traditional knowledge in a fragmented manner, without recognition of its holistic nature and its indissoluble unity with our collective rights as peoples.
5. We are concerned that national and international processes related to free trade agreements between states foster the usurpation and degradation of our forests, lands and territories, as well as biopiracy and uncontrolled access to genetic resources in our forests, lands and territories.
6. The greatest obstacles for the implementation of international standards and mechanisms related to the human rights and fundamental freedoms of indigenous peoples are the lack of political will of nation states, unfair and discriminatory laws, and the lack of sufficient funds and resources to allow the autonomous development and full participation of indigenous peoples in all processes.
7. Traditional Forest Related Knowledge (TFRK) of indigenous peoples is intrinsically interlinked with our life. It cannot be separated from our interrelationship to our territories. We emphasize the unique spiritual values, world views and cosmologies of indigenous peoples, all of which are interconnected to the sacred web of life and enrich the cultural diversity of all humanity. There is no knowledge without peoples or territories.
8. Traditional Forest Related Knowledge of indigenous peoples is not a commodity. It cannot be extracted, documented and traded. It is linked to our intergenerational cultural development, survival, beliefs, spirituality and medicinal systems. It is inseparable from our lands and territories. Its use is confined to persons with the appropriate authority to use it in accordance with our customary laws.
9. Our traditional knowledge is much more than simply the knowledge of certain plants or animals. It is intimately linked to the spiritual world, to ecosystems, and to the biological diversity within our lands and territories and it transcends national boundaries. Fragmented misappropriation of this knowledge constitutes a deep violation of the integrity of our lives, territories and autonomous development.

In view of the above, we once more demand the recognition of the following principles in all forest policies and issues related to TFRK:

General Principles:

1. Indigenous peoples have the right to self-determination. We have legal and juridical systems based on our collective rights to our territories and natural resources, including subsoil resources.
2. The application of the principle of free and prior informed consent is fundamental in any decision which could affect our territories, lands, forests and development planning.
3. The issue of traditional knowledge must be regarded in a holistic manner, inseparable from our rights as peoples.
4. We are the owners and custodians of indigenous knowledge, and the ones to decide upon the nature of its use and application, and the conditions under which it can accessed or not. Indigenous peoples are opposed to a use of traditional knowledge which violates the spirituality and cosmovision associated with traditional knowledge.
5. We endorse a rights-based approach as the most appropriate way of dealing with the theme of forests and traditional knowledge, and also with efforts to eradicate poverty. Such an approach recognizes both the collective and individual rights of indigenous peoples, which include our rights to self-determination, our rights to the use and control of our natural resources, to our cultural heritage, to our self-development, to our languages and our traditional ways of life and livelihood.
6. Indigenous peoples have the right to a development that is appropriate and suitable for us, on our own terms and conditions, and at our own pace and tempo, managed and guided by our own leaders, institutions and processes. The right to use our forests, water and subsoil which we have protected and sustainably used over the centuries, in ways that we find appropriate, including contemporary innovative systems of forest use and forest management, is part of our right to development.
7. We emphasize the need to strengthen the major role of indigenous women in the preservation and transmission of indigenous knowledge. The role of elders and spiritual guides as owners and transmitters of traditional knowledge to the younger generations must also be recognized.

15.00 - adopted

*Indigenous leader of the Huetar people of Costa Rica

CONSOLIDATED RECOMMENDATIONS

Establishing Effective Frameworks

Recognizing that the protection and promotion of the Tradit ional Forest Related Knowledge (TFRK) of Indigenous Peoples (IP) is inextricably linked with their full cultural and intellectual heritage, secure rights to their lands, territories and the natural resources therein and with their spirituality and customary law,

Considering that indigenous peoples' rights are the foundation of their future development, and that many indigenous peoples traditionally and currently depend on forests, and that indigenous peoples' rights must be recognized in forest policies,

Asserting that sustainable forest management cannot be achieved without the protection of IP rights,

We provide the following recommendations:

National governments and states should, with full and effective participation of Indigenous Peoples:

1. Undertake constitutional reforms that recognize the existence and identities of Indigenous Peoples in their countries, through plural legal regimes and by ensuring their prominence in national law

2. Ratify the International Labour Convention 169 on the Rights of Indigenous and Tribal Peoples in Independent Countries, where Indigenous Peoples so demand.

3. Support the adoption of the UN Draft Declaration on the Rights of Indigenous Peoples

4. Review national constitutions, laws and policies to harmonize them with applicable international laws and agreements concerning the rights of Indigenous Peoples.

5. Repeal exclusionary forest and conservation laws, policies and associated norms, codes and legislation that criminalize the customary resource use practices and traditional livelihood activities

6. Reform national forest and conservation policies, laws, institutions, and land tenure regimes to recognize indigenous peoples' unambiguous and secure rights to collectively own, manage, and control their territories, forests and other natural resources, taking into account their traditional lifestyles and customary systems of tenure, especially those relevant to TK;

7. Repeal all assimilationist development laws and policies since they devalue and undermine Indigenous Knowledge, including TFRK

8. Adopt laws and programs that eliminate and penalize all forms of discrimination, intolerance and social exclusion, and ratify and implement the Convention on the Elimination of All Forms of Discrimination

9. Develop primary and secondary school curricula to reflect the perspectives of, and be relevant to, Indigenous systems of knowledge

10. Implement affirmative action regarding the provision of education to indigenous girls and boys, such as free education

11. Provide the required technical services and political and moral support necessary for the recognition, creation, and functioning of future Indigenous universities, where Indigenous Peoples so demand

12. Ensure that in schools and universities where forestry and related studies are taught current curricula for courses and degrees are expanded to include both TFRK and the rights of Indigenous Peoples

13. Initiate deliberate action to provide indigenous women with the necessary capacity to fully participate in all strategies of natural resource management, and to share their knowledge of traditional natural resource management practices

14. Allow freedom of association for indigenous peoples, in order to form networks and organisations, to advocate for their rights

15. Not interpret national sovereignty in any way that undermines the rights of peoples, inclusive of indigenous peoples, including their right to self-determination and permanent sovereignty over the natural resources in their territories.

16. Respect, promote and implement the economic, social and cultural rights of IP to ensure coherence with processes of territorial demarcation and respect for Indigenous customary law and forest management

17. Prohibit the imposition of protected areas and forest reserves on Indigenous Peoples' territories and halt the involuntary displacement of IP. In the case of alienated lands of indigenous peoples, governments should take adequate measures to restore ownership and possession of the same to the indigenous peoples.

18. Not establish concessions that affect Indigenous territories and rights. Where this has occurred, reparations and indemnity for damages caused should be paid, and fair and equitable sharing of benefits provided.

19. Initiate immediately, in a fully participatory manner, the restitution of indigenous peoples' lands expropriated for settlement, conservation and development projects without their free, prior and informed consent. Where this is not possible they should be provided with compensation and preferably provided lands of equal quality and extent

20. Ensure equitable representation of indigenous peoples on relevant government commissions and in the parliament

21. Adopt timely national measures to promote and facilitate the implementation of Article 10(c) of the CBD

22. Undertake development of policies and laws, with the free prior informed consent of Indigenous peoples, that implement the Akwe:kon Guidelines for the conduct of cultural, environmental and social impact assessments regarding development proposed to take place on, or which are likely, to impact on, sacred sites and on lands and waters traditionally occupied or used by Indigenous and local communities

23. Adopt and adhere to policies of full information disclosure of relevance to indigenous peoples and TFRK, and disseminate this information widely in appropriate languages and forms

24. Stop large-scale, illegal logging while recognizing without criminalizing the customary use and access to forests by local communities and indigenous peoples for their own needs. At the same time, the state should address the root causes of poverty that exert undue pressure on forest communities

25. Recognize customary law and legal pluralism as vital means of protecting TFRK while adopting additional *sui generis* measures to prevent the expropriation of IP knowledge and resources without diminishing IP customary jurisdictions and laws and respecting the collective, holistic, inalienable and intergenerational nature of indigenous cultural heritage

26. Support customary rotational farming and hunting and fishing practices to ensure their sustainability through action research and education. Protection of these extensive systems of land use requires the statutory recognition of indigenous peoples' territories.

27. Provide an institutionalized and regular process for IPs to dialogue among themselves, with government representatives, and among government departments to review and harmonize national policies and laws and to discuss other matters of high priority and concern to IP.

28. In negotiating an international regime on access to genetic resources and benefit sharing, recognize and protect the fundamental principle that Indigenous Peoples are rights-holders with inherent and inalienable rights over their traditional knowledge and biological resources, including genetic material, within their territories. Obligations of states under human rights conventions must be fully recognized in the development of an international regime. States must ensure that the rights of Indigenous Peoples to free, prior informed consent when their knowledge or genetic resources are sought for utilization, including the right to deny access and /or refuse to participate.

29. Refrain from deploying or permitting military and para-military forces to protect forest reserves and other areas adjacent to indigenous peoples' territories

30. Immediately repeal laws that provide immunity from criminal prosecution to government officials with responsibilities for forest management.

Improving Implementation

Although many existing international agreements related to forests recommend positive policy changes and action, the national case studies and regional reviews carried out for this meeting show clearly that the majority of these agreements are being implemented tardily, inadequately, and with little real participation from IP.

One glaring example of the dangers in excluding IP from implementation strategies is evident in the experience with databases and registries designed to document Indigenous knowledge as a means, *inter alia*, of establishing evidence of prior art.

Databases of traditional and associated biological knowledge could be a means to facilitate access by external entities, making traditional knowledge vulnerable to exploitation. Databases and registers are only one approach in the effective protection of traditional knowledge, innovations and practices and their establishment should be considered voluntary, not a requirement for protection, and where established, occur only with the free prior informed consent of indigenous and local communities. Traditional knowledge that is already documented or in registers or databases should not be considered to be in the public domain, and Indigenous peoples retain all rights over the ownership and use of such knowledge. Indigenous peoples have a right to grant or refuse such access as well as to determine the level of such access.

Governments therefore should:

31. Take adequate measures to help preserve and protect the TFRK of IP, with the free, prior and informed consent of the IP concerned.

32. Liaise with indigenous peoples to establish a process for the documentation of TFRK with the free prior and informed consent of IP

33. Recognise that the knowledge so documented continues to be the property of the indigenous peoples in question, and that it cannot be used in any manner without their free prior informed consent, through the establishment, in a fully participatory manner, of appropriate laws and policies.

34. Ensure that indigenous peoples receive the benefits from any use of this knowledge, through the establishment, in a fully participatory manner, of appropriate laws and policies.

35. All international processes dealing with forest issues (including the UNFF and CBD), as well as all international forest-related agencies (including members of the CPF) should apply an integrated and rights-based approach in all policy discussions, initiatives, projects or programmes that directly or indirectly deal with or relate to traditional knowledge.

36. Ensure that agro-forestry technologies drawing upon TFRK, such as 'Taungya', clearly acknowledge the origins of this knowledge and only apply it with the free, prior and informed consent of its original custodians

Implications for the International Arrangement on Forests

Recognizing that the IAF is not ready to embark on a process of negotiating a legally binding instrument on forests, since the UNFF has yet to adopt the holistic vision of forests held by indigenous peoples in which indigenous peoples' collective rights to their lands and territories and knowledge are integral;

Moreover, concerned that the IAF/UNFF has yet to accept the necessity of defending forests, indigenous peoples and local communities against the pressures of international free trade agreements;

Any future international arrangement on forests (post-UNFF 5) should:

37. Only be embarked on with the full and effective participation and consent of indigenous peoples, and only if the provisions of the proposed arrangement are respectful towards and consistent with the rights of IPs

38. Have a specific standing agenda item addressing Indigenous Peoples' Forest Issues. Additionally, Indigenous Peoples' Forest Issues should be addressed as cross-cutting issues throughout the various processes. The program of work of any future arrangement should take into account the relevance of indigenous perspectives to all aspects of work.

39. At the national level, governments should address Indigenous Peoples' issues within their National Forest Programs and National Biodiversity Action Plans, and Parks and Protected areas strategies, and strengthen Indigenous Peoples' participation in national planning implementation and reporting. Additionally, consultation should be done with respect to appropriate Indigenous Peoples' structures, with mechanisms for documentation and disclosure.

40. Regarding the CBD and UNFF and Strengthening National Reporting:

a) UNFF secretariat should redraft guidelines for national reporting to ensure it embraces a broader set of issues relevant to Indigenous issues and TFRK.

b) The CBD, UNFF and their Member States should strengthen national reports by including, in an equitable way, the perspectives of Indigenous Peoples, and by providing equitable funding and resources for Indigenous Peoples to submit parallel reports to complement and enrich national reporting process to the CBD.

c) National Reports to the CBD and UNFF should identify who (in terms of Indigenous Peoples) has been consulted through what IP structures/organizations and Indigenous Peoples' communities should be aware of the process and structures to allow them to participate and contribute.

41. The CBD, and any future international arrangement on forests, must increase and accelerate work on mainstreaming Indigenous Peoples' issues, as cross-cutting issues, across all of the thematic and other areas of the CBD.

42. UNPFII should provide greater coordination and guidance and make recommendations to the UNFF, governing bodies of the CPF member organizations, including the CBD, in their work relevant to Indigenous Peoples.

43. The UNPFII should create a task force on Traditional Knowledge bringing together all the UN agencies working on Traditional Knowledge to ensure a broad and effective holistic approach to the protection of Traditional Knowledge and related natural resources.

44. The UNPFII, now that it exists with a mandate relevant to the UNFF, should become a member of the CPF.

45. International Arrangement on Forests/CBD should institute/establish a Northern Regional process on forest issues, with a particular focus on TFRK in the Northern and Boreal regions. In creating this process, the Arctic Council should be seen as an example of good practice on high-level cooperation between governments and indigenous peoples.

46. National Criteria and Indicators frameworks for SFM must include a specific criterion on Indigenous Peoples Forest Issues, which will, as a focus, measure the extent to which Indigenous rights are respected and TFRK is considered in Forest Management, in the view of Indigenous Peoples. Any future international arrangement on forests, in addressing C & I, must embed indigenous issues in this process. Current Criteria and Indicators need to be redeveloped to include indigenous perspectives.

47. The UNFF/CBD should direct increased attention to global warming in their work, and activities relating to TFRK, since global warming is an increasing source of destruction of TFRK, particularly concerning the Arctic region, the Amazon basin and small island developing states.

48. Any International Arrangement on Forests (IAF) must conform to existing international law related to Indigenous rights, such as that on FPIC, which is an established principle in working methodologies of the UN, such as those taking place through the CBD, UNDP, etc. Additionally, rather than seeing existing discussions as sufficient, any future international arrangement on forests should aspire to advance Indigenous Peoples' rights such as that of self-determination.

49. Any IAF should adopt the best practices of other UN bodies (such as CBD in its work on Art. 8(j) / WGIP / UNPFII) concerning the full and effective participation of Indigenous Peoples. Any IAF should adopt such mechanisms of participation.

50. The UNFF, and any subsequent international arrangement on forests, should recognize Indigenous Peoples as distinct peoples and grant them increased and differentiated participation consistent with emerging trends in the UN system.

51. The UNPFII should work with the WTO Secretariat and Member States to open up the WTO to Indigenous Peoples' participation and to raise their awareness of the impact of trade arrangements on Indigenous Peoples and their rights.

52. Governments, any future IAF, and CBD, should support national and/or international policies which restore full access and rights to resources and traditional territories necessary for Indigenous Peoples to exercise traditional land use activities, such as hunting, fishing, gathering, herding, and ceremonial activities required to maintain and rejuvenate TFRK and support the livelihoods of Indigenous Peoples. Additionally, in consultation with the relevant Indigenous Peoples, governments should halt current projects that are contributing to the degradation of traditional lands until it has been established what rights Indigenous Peoples have to the land. Also, a process should be established to determine these rights and interests.

53. Countries, donor agencies, the IAF, CBD and other members of the CPF, should support efforts at the national, regional, and local level to utilize both TFRK and scientific forest related knowledge in the development of forest policies, forest, research, forest assessments, sustainable forest management practices and monitoring activities, with the full and effect participation of indigenous peoples.

54. Any future IAF should focus on monitoring, assessment and reporting on implementation of IPF/IFF PFAs. In addition, third party assessments, peer reviews, and independent evaluations of these processes should be emphasized.

55. National governments, donor agencies, and voluntary fund mechanisms should provide adequate funding to support Indigenous Peoples' initiatives to develop their capacity to manage forests and take part in national and international initiatives.

56. IAF and CBD should encourage member states to develop new institutional arrangements, such as an Indigenous Peoples' forest tenure, consistent with the community forest movement, which would additionally address indigenous peoples' rights, and incorporate their unique forest values and interests.

57. Establish, with the full participation of indigenous peoples, benchmarks and indicators for measuring the implementation of national guidelines and regulations regarding TFRK

58. The UNFCCC and its Kyoto Protocol should not regard plantation forests as carbon sinks in CDM projects.

59. The UN Special Rapporteur on the rights and fundamental freedoms of IP should elaborate a report specifically on the current status of TFRK.

60. The UN High Commissioner for Refugees should create a special program to address the needs of IP displaced by the exploitation of their lands and territories.

61. The UNESCO Draft Convention on Cultural Diversity must be negotiated between mem ber states and representatives of IP to ensure that it provides adequate protection of their cultural heritage.

62. There should be full discussion and open participation by representatives of IP in WIPO's work related to genetic resources, traditional knowledge, and traditional expressions of culture.

63. The Secretariats of the Convention on the Elimination of Discrimination Against Women, UNFF, CBD as well as UNIFEM and other UN agencies should compile best practices related to Indigenous women's tradit ional knowledge of forest management.

Indigenous Peoples

Recognizing that self-determination implies both rights and responsibilities, IP should:

64. Together with NGOs and funding agencies, ensure that information about relevant international processes reach IP communities in appropriate language and form, and to also ensure that members of such communities are able to attend the relevant international meetings.

65. Together with NGOs and funding agencies, ensure that preparatory meetings are held in IP territories and areas prior to IP participation at international meetings concerning their rights.

66. Transmit the millennial knowledge of their ancestors to future generations in which process indigenous women, community elders and spiritual guides play a fundamental role

67. Undertake activities that would provide civic education to indigenous peoples and communities, on issues regarding TFRK

68. Raise their governments' awareness of Indigenous Peoples' skills and capacities with regard to TFRK and sustainable forest management

69. Initiate deliberate action to reform customary practices that prevent the full participation of women in natural resource management

70. Advocate for TFRK to become a part of school curricula in indigenous communities

71. Strengthen advocacy measures to reform national laws and policies to bring them into conformity with obligations under international law, and to take effective administrative and other measures to implement those laws

72 Strengthen the participation of indigenous children and youth in international and national processes on forests

73. Northern Indigenous Peoples' Organizations should initiate the creation of a focal point from Northern IPOs that would parallel the focal point of Indigenous Peoples' Organizations representing Southern countries. This self-selected focal point should be welcomed by the Secretariat of the UNFF.

Donor Agencies

Recognizing the important role of international cooperation and partnerships to achieve needed reforms and to ensure proper and adequate capacity building, donor governments and agencies should:

74. Support exchange programmes between different indigenous communities, both locally, nationally, regionally and globally, in order to share experiences and knowledge on the promotion and protection of TFRK

75. Provide resources for the capacity building of indigenous peoples to undertake lobbying and advocacy activities

76. Provide resources to undertake lobbying and advocacy activities at the local, national and international levels

77. Mainstream consideration of TFRK related issues in all projects and programmes affecting indigenous peoples

78. Provide sufficient resources to support projects and programmes which are planned, executed and managed by IP for their self-development.

79. No international financial institution should promote or enter into projects related to natural resources, forests, land, water, agriculture, mining etc. that are not accepted by the relevant Indigenous Peoples

80. International agencies that finance or otherwise support or promote forest-related policies, projects or programmes (including the World Bank, Regional Development Banks, GEF, FAO etc.) must ensure that such activities are acceptable to affected indigenous peoples or other holders of traditional knowledge, as expressed through their representative institutions and organizations, prior to any policy adoption or any approval of a particular project or programme.

81. Recommend to Northern Governments, Donor Organizations, and Voluntary Fund mechan isms, to ensure that funding is also made available to enable the participation of Northern countries' Indigenous Peoples in relevant international and national meetings. Additionally, once funded, Indigenous Peoples should be free to participate as they see fit, through government delegations or in their own capacity.

Adopted by consensus, Corobici Hotel, San Jose Costa Rica, 10 December 2004